

control over the principal till the objects of this bequest and devise are fully complied with."

The will also contained a legacy of \$7,000 in favor of the testator's niece, Anne Shipley, the annual interest whereof was to be paid to her during her natural life, the principal after her death to be divided among her children, but if she should die without leaving lawful issue then over, the said trustees to retain in their hands the principal, and put the same out at interest or good security for the purposes aforesaid. The said trustees were also appointed executors of the will.

Various proceedings in equity arose under this will, which are particularly reported in the case of Jones, who married the legatee, Ann Shipley, against Stockett, 2 *Bland*, 409 to 436, and the *Farmers and Mechanics Bank vs. Wayman and Stockett*, 5 *Gill*, 336 to 358. By these proceedings, among other things a debt due by Stockett to the testator, Larkin Shipley, and secured by a mortgage to him, executed by Stockett in 1821, was decided to constitute a part of the trust fund, to be held by Wayman and Stockett for the benefit of the testator's nephew, Larkin Shipley, one of the complainants in this case.

On the 8th of July, 1847, the Auditor, at the request of Stockett, made a report and statement of said mortgage debt. By this statement, the Auditor says it appears that there has been paid, over and above the interest on said debt, the sum of \$875 72, of which there was paid into court on the 1st of March, 1845, \$388 23, on the 21st of January, 1846, \$24 14, and on the 20th of May, 1846, \$422 27, the residue having been paid in small amounts at different times. These sums were paid into court without the consent of the *cestui que trust*, but with the approbation of the court, and it is submitted whether the said Stockett, being one of the joint trustees, whose duty it was to make an immediate investment, is not answerable for interest upon the same from the time they were severally deposited in court until they shall have been invested. That there is still due on the mortgage the sum of \$981 67.

Previous to this statement and report of the Auditor, to wit, on the 29th of July, 1846, the Chancellor (*Bland*) had, upon